



## County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA  
Chief Executive Officer

Board of Supervisors

GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

August 10, 2010

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

### **AMENDMENT OF OFFICE OF INDEPENDENT REVIEW AGREEMENT TO PROVIDE SERVICES TO THE PROBATION DEPARTMENT AND THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES (ALL DISTRICTS) (3 VOTES)**

#### **SUBJECT**

The Chief Executive Officer is requesting Board approval to amend Agreement Number 76349 for Special Legal Services with Michael J. Gennaco, Chief Attorney of the Office of Independent Review, to expand services to the Probation Department and the Department of Children and Family Services.

#### **IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve the attached Amendment Number Two to Agreement Number 76349 with Michael J. Gennaco, Chief Attorney for Office of Independent Review, to expand the services of the Office of Independent Review to include the oversight of the Probation Department and to perform an assessment in the Department of Children and Family Services.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS**

Pursuant to your Board's June 29, 2010 directive, the Chief Executive Officer (CEO) and the Chief Probation Officer (CPO) have developed a proposed amendment of the

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Office of Independent Review (OIR) Chief Attorney's Agreement in order to implement OIR's services related to providing oversight of all areas of the Probation Department's (Probation) internal affairs operation. OIR is also uniquely positioned to assess the investigative functions of the Department of Children and Family Services (DCFS). This amendment will provide for the needed assessment.

The purpose of the recommended actions is to obtain your Board's approval to amend OIR's agreement to provide the services indicated above. Both Probation and DCFS perform critical functions involving juveniles and adults in the County of Los Angeles. Concerns have been raised about the effectiveness of internal investigations in both operations.

The services OIR currently performs in the Sheriff's Department are consistent with those required in Probation through its independent nature and by working to achieve fair and thorough investigations.

OIR's key responsibilities with regards to Probation involve: 1) providing periodic status reports on all investigations and significant matters within the purview of the OIR; 2) assisting in the initiation, structuring, and development of ongoing internal investigations falling within the purview of OIR to ensure that investigations are complete, effective, and fair; 3) monitoring ongoing investigations and reviewing completed investigations falling within the purview of OIR to ensure that content, disposition of employment issues, and recommended discipline are appropriate; and 4) making recommendations of disposition and discipline, if founded, for all investigations falling within the purview of OIR.

#### **Implementation of Strategic Plan Goals**

The recommended actions are consistent with the Countywide Strategic Plan Goal 1: Operational Effectiveness, Goal 2: Children, Family and Adult Well-Being, and Goal 5: Public Safety. The expansion of OIR oversight to Probation and the performances of an assessment in DCFS will enhance Probation and DCFS' ability to protect the well-being and safety of its clients.

#### **FISCAL IMPACT/FINANCING**

At this time, the estimated net County cost to implement the OIR for Probation is \$400,000 annually. The cost to DCFS is unknown. These costs will be absorbed by these Departments. However, if the need to offset the costs to Probation arises, a recommendation will be presented to the Board by the CEO.

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### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On June 29, 2010, on motion by Supervisors Yaroslavsky and Antonovich, the Board directed the CPO, with the assistance of the CEO and County Counsel, to procure the services of OIR for the purpose of providing oversight for all areas of Probation's Internal Affairs Operation. The motion specifically identified the procurement of two experienced OIR attorneys who will assist in providing oversight of Probation's Child Abuse, Internal Affairs, and Performance Management Units, as well as requisite support staff with OIR to report to the CPO, CEO, and the Board. The Board further directed the CEO and CPO to report back to the Board in four weeks with a proposed budget and appropriate contracts to implement these actions.

To preserve consistency and continuity, OIR's services for both Departments will continue to be under the supervision of Mr. Gennaco.

The Board also directed our office to work with OIR to perform an assessment of DCFS investigative functions. This Amendment also responds to this direction.

The current OIR attorney agreements expire on September 30, 2010. Prior to that date, CEO will return to your Board with recommendations for approval of new agreements with all OIR attorneys for the term from October 1, 2010 through September 30, 2013.

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Implementation of OIR for Probation and DCFS will enhance the County's ability to provide fair and impartial review of internal Probation and DCFS investigations. This will assist in providing confidence to key stakeholders and the citizens of Los Angeles County that the investigative functions of Probation and DCFS are handled professionally and objectively.

### **CONCLUSION**

Upon approval and execution, it is requested that the Executive Officer, Board of Supervisors send an original adopted Board letter and Amendment Number Two to:

Chief Executive Office  
Public Safety  
Attn: Jacqueline A. White  
754 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Probation Department  
Administrative Services  
Attn: DeWitt Roberts, Deputy Director  
Administrative Services  
9150 East Imperial Highway  
Downey, CA 90242

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Office of the County Counsel  
Attn: Roger H. Granbo  
Assistant County Counsel  
648 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Office of Independent Review  
Attn: Michael Gennaco,  
Chief Counsel  
4900 South Easter Avenue,  
Suite 204  
City of Commerce, CA 90040

Department of Children and  
Family Services  
Attn: Patricia Ploehn, Director  
425 Shatto Place  
Los Angeles, CA 93550

Respectfully submitted,



WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:BC:JAW  
SW: cc

Attachment

c: Executive Office, Board of Supervisors  
County Counsel  
Auditor-Controller  
Probation  
DCFS

oir\_prob.bl

**AMENDMENT NUMBER TWO**  
**TO AGREEMENT NUMBER 76349 FOR SPECIAL LEGAL SERVICES**  
**OFFICE OF INDEPENDENT REVIEW**

This Amendment Number Two (hereafter "Amendment") to Agreement Number 76349 is made and entered into this 10<sup>th</sup> day of August, 2010,

by and between

COUNTY OF LOS ANGELES  
(hereafter "County")

and

MICHAEL J. GENNACO  
(hereafter "Chief Attorney")

Business Address:  
Office of Independent Review  
4900 South Eastern Avenue, Suite 204  
Commerce, CA 90040

**WHEREAS**, reference is made to that certain document entitled "Agreement for Special Legal Services Office of Independent Review," dated September 18, 2007, and further identified as Agreement No. 76349, and any amendments thereto (all hereafter referred to as "Agreement"); and

**WHEREAS**, in 2001, the Board of Supervisors created the Office of Independent Review (OIR) to ensure that allegations of intradepartmental misconduct in the Los Angeles County Sheriff's Department are investigated and reviewed in a fair, thorough, and impartial manner; and

**WHEREAS**, on September 18, 2007, the County, under the authority of the Board of Supervisors, entered into Agreement Number 76349 with the Chief Attorney to provide services to the County, specifically OIR; and

**WHEREAS**, on March 2, 2010, the Board of Supervisors expanded the function of OIR beyond the Los Angeles County Sheriff's Department and extended the investigations falling within the purview of OIR to include the Los Angeles County Probation Department's internal affairs and child abuse investigations; and

**WHEREAS**, on March 8, 2010, the parties entered into Amendment Number One to Agreement Number 76349 to expand the function of OIR in accordance with the action of the Board of Supervisors on March 2, 2010; and

**WHEREAS**, on June 29, 2010, the Board of Supervisors further expanded the functions of OIR related to the Probation Department to require oversight for all areas of the Probation Department's internal affairs operations; and

76349

Supplement No.

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**WHEREAS**, OIR is also uniquely positioned to assist the Los Angeles County Department of Children and Family Services in addressing ongoing concerns and issues relating to both its internal affairs and child abuse investigations, including the structural relationship between Department of Children and Family Services' internal investigative functions and the Children's Special Investigation Unit.

**NOW, THEREFORE**, in consideration of the mutual benefits derived therefrom, it is agreed between the parties that Agreement No. 76349 shall be amended as follows:

1. Effective upon execution of this Amendment, the parties acknowledge and agree that the functions of OIR shall be expanded to require oversight for all areas of the Probation Department's internal affairs operations, including the Probation Department's Child Abuse, Internal Affairs, and Performance Management units.
2. Effective upon execution of this Amendment, the parties acknowledge and agree that the functions of OIR shall be expanded to require that OIR address ongoing concerns and issues relating to both internal affairs and child abuse investigations of the Department of Children and Family Services, including the structural relationship between Department of Children and Family Services' internal investigative functions and the Children's Special Investigation Unit.
3. Section 4, Access to Records and Confidentiality, is deleted in its entirety and replaced as follows:

Access to Records and Confidentiality.

The Chief Attorney shall have an attorney-client relationship with the County of Los Angeles, the Sheriff, the Chief Probation Officer, and the Director of the Department of Children and Family Services in performing the special legal services provided pursuant to this Agreement. As special counsel to the County of Los Angeles, the Sheriff, the Chief Probation Officer, and the Director of the Department of Children and Family Services in performing the specialized legal assistance and independent review services provided pursuant to this Agreement, the Chief Attorney shall have access on an attorney-client basis to such confidential records of the County, its departments and officers as may be material and relevant to performance of his services and responsibilities pursuant to this Agreement.

All communications and reports to the County, including the Board of Supervisors, the Sheriff, the Chief Probation Officer, and Director of the Department of Children and Family Services shall be made or submitted on a confidential attorney-client basis. Any public reports by the Chief

Attorney which are authorized by the County shall preserve all statutory and constitutional requirements of confidentiality with regard to records and individuals. All such information will be information acquired in confidence by a public employee in the course of his or her duties and not open, or officially disclosed, to the public within the meaning of California Evidence Code Section 1040.

All internal observations and determinations by the Chief Attorney in the performance of the specialized legal assistance and independent review services provided pursuant to this Agreement are and shall be considered attorney work product and subject to the appropriate claims of privilege therein.

The confidentiality of all records and materials collected and used by Chief Attorney shall be preserved consistent with the terms of this Agreement, and shall within ten (10) working days from the date of expiration or termination of this Agreement be delivered to the Office of County Counsel for confidential retention in the manner and for the periods required by law for confidential records of the County Counsel.

4. Except for the modifications set forth herein above, the Agreement shall not be changed in any respect by this Amendment.



**AMENDMENT NUMBER TWO**  
**TO AGREEMENT NUMBER 76349 FOR SPECIAL LEGAL SERVICES**  
**OFFICE OF INDEPENDENT REVIEW**

IN WITNESS WHEREOF, the Chief Attorney has executed this Amendment, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Amendment to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

COUNTY OF LOS ANGELES

By *Gloria Trubian*  
Chair, Board of Supervisors

ATTEST:  
SACHI A. HAMAI  
Executive Officer-Clerk  
of the Board of Supervisors

By *Lachelle Smithman*  
Deputy



CHIEF ATTORNEY

By *Michael J. Gennaco*  
MICHAEL J. GENNACO

APPROVED AS TO FORM:  
OFFICE OF COUNTY COUNSEL

By *Michele Jackson*  
Deputy County Counsel

I hereby certify that pursuant to  
Section 25103 of the Government Code,  
delivery of this document has been made.

SACHI A. HAMAI  
Executive Officer  
Clerk of the Board of Supervisors

By *Lachelle Smithman*  
Deputy

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

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*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

